

MINUTES

Substance Abuse Prevention Interim Study

Senator Jim White, Chair
Representative Mike Stevens, Vice Chair



**Fourth and Final Meeting, 2016 Interim
Tuesday, October 11, 2016**

**Room 413 – State Capitol
Pierre, SD**

The fourth and final meeting of the Substance Abuse Prevention Interim Study Committee was called to order by Senator Jim White, Chair, at 10:00 a.m. (CDT) on October 11, 2016, in Room 413 of the State Capitol, Pierre, South Dakota.

A quorum was determined by the following members answering the roll call: Senator Jim White, Chair; Representative Mike Stevens, Vice Chair; Senators Jim Bradford, Jeff Monroe, and Craig Tieszen; Representatives Jim Bolin and Steven Haugaard. Senator Brock Greenfield; Representatives Kristin Conzet, Steven McCleerey and Tona Rozum were excused.

Staff members present included Roxanne Hammond, Senior Legislative Attorney; Stephanie Gruba, Fiscal Analyst; Jessica LaMie, Research Analyst; and Paul Giovanetti, Senior Legislative Secretary.

NOTE: For purpose of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents distributed at the meeting are attached to the original minutes on file in the Legislative Research Council office. This meeting was web cast live. The archived web cast is available at the LRC web site at <http://sdlegislature.gov>.

Approval of Minutes and Opening Remarks

REPRESENTATIVE STEVENS MOVED, SECONDED BY REPRESENTATIVE BOLIN, TO APPROVE THE MINUTES OF THE AUGUST 17, 2016 MEETING. The motion prevailed unanimously on a voice vote.

Senator Jim White reviewed the work of the interim study which focused on substance abuse prevention, specifically meth and prescription opioids.

Representative Jim Bolin stated the work of the interim study has been to study and find ways to address the problems of substance abuse. This problem is not just a local problem but an epidemic that is affecting our whole nation.

Representative Steven Haugaard commended the leadership and members of the committee for the work they have done this interim. He stated there are drugs available to assist in opioid and alcohol addictions, but when an individual is struggling with a meth addiction, the treatment is very difficult. The state needs to focus resources to address the problem and prevention, because the overall cost of incarceration is more expensive.

Senator Craig Tieszen stated substance abuse, especially meth and prescription drugs, is a problem affecting everyone throughout our state. The Legislature will be under pressure by their constituents either requesting or demanding action to address this problem.

Senator Jeff Monroe stated the testimony provided this interim has been the most informative. The information provided by members of law enforcement who have to deal with this problem every day shows that communities have seen the rise in crime, and now have to build larger jails to keep up. The current policies of the state are soft on drug crime in order to keep criminals out of prison, and if the state continues with current policies this problem will continue to grow. The state needs to find a middle ground where the laws are not too harsh that prison rates skyrocket, but not too soft that crime rates continue to rise.

Senator Jim Bradford stated that the current state policies are insufficient. The state needs to focus on prevention and fund a stringent recovery program. Addictions are more powerful and with a focus on treatment addicts can return home to their family. The next step is for this body to present substance abuse legislation to the full legislative body and gain support. The work done during the interim is not for us, it is for our children, grandchildren, and the future of our state.

Introduction of Draft Legislation

Roxanne Hammond, Senior Legislative Attorney, Legislative Research Council, explained the three pieces of draft legislation to the committee:

DRAFT 1- Prescription Drug Monitoring Program Prescriber Requirements. ([Document #1](#))

DRAFT 2- Prescription Drug Monitoring Program Changes. ([Document #2](#))

DRAFT 3- Special Appropriations for Substance Abuse Prevention. ([Document #3](#))

Representative Bolin voiced concerns with the changes in Draft 2, specifically the reporting requirements for small pharmacies that operate in our rural towns.

Prescription Drug Monitoring Program

Ms. Melissa DeNoon, R.Ph., Prescription Drug Monitoring Program Director, South Dakota State Board of Pharmacy, presented information via telephone on prescription drug abuse and the Prescription Drug Monitoring Program, the status the opioid epidemic in South Dakota, statistical information gathered through the prescription drug monitoring program, the future of the program through the integration of the program into electronic health records systems, and the drug take back program ([Document #4](#)).

Representative Bolin asked if the federal grant did not exist how would that impact the program, and asked her to provide the breakdown of the program budget. **Ms. Kari Shanard-Koenders, R.Ph., Executive Director, South Dakota State Board of Pharmacy**, replied that without the federal grants the program would not exist. In order to fully fund the program the board would look at increasing the licensure fees. The program is funded mostly through the federal grant, with \$300,000 used from our licensure fees and the Office of the Attorney General. There are no state general funds used towards these programs.

Senator Monroe stated that Draft 1 requires prescribers to check the prescription drug monitoring program and asked what impact would that have on prescribers. Ms. DeNoon replied that the legislation would make South Dakota a mandated state. Right now prescribers can choose to participate in the

program. This becomes easier with the integration of the electronic health records system. However, it is better for this mandate to occur after integration is complete.

Senator Monroe asked what percentage of the population who have prescription drugs in their medicine cabinets participate in the drug take back program. Ms. DeNoon replied that most patients feel comfortable taking the prescription back to their local pharmacy instead of the police station. The board is examining multiple options and looking at which program is working in other states.

The committee had a discussion about the frequency of the reporting requirements of the Prescription Drug Monitoring Program. It was determined that there was no legislative issue.

Representative Mike Stevens reviewed the statistics on opioid abuse, the number of prescribers participating in the program, and asked why prescribers are not using the system. Ms. DeNoon replied that they've asked the same question since the program began. The board is active in educating prescribers about the program. Most prescribers believe that the program will not impact their patients. Pharmacists feel they are the ones who use the program the most and are catching incidents of opioid abuse, only after it has been prescribed.

Senator White commented that the committee needs to move forward with a structured plan to address this problem but give prescribers time to integrate into the program.

Representative Stevens commented that a law was passed in 2010 that allowed for the Prescription Drug Monitoring Program to begin. Since then, the program has allowed prescribers to voluntarily enroll in the program. Currently only fifteen percent of our prescribers that prescribe opioids are on the program. Volunteering is not working and it is time that we look at a mandate to combat the opioid abuse that is affecting our state.

Representative Bolin asked if the board brings a report to the Legislature on a regular basis about this program. Ms. Shanard-Koenders replied that in 2015 the board presented an overall report to both of the Health and Human Services Committees, but not on opioid abuse.

Senator Monroe stated that it would benefit the state to have mandatory compliance, but there needs to be exceptions for prescribers. Ms. Shanard-Koenders stated that most mandated states create steps to enable mandatory compliance. These steps include registering for the program and requiring access, used through the Medical Board of Licensing.

Senator Tieszen asked what percentage of prescribers will be covered once the three major hospitals systems are integrated. Ms. DeNoon replied that over 90% of the prescribers in the state will be covered through integration.

Senator White asked what percentage of prescribers use electronic health records. Ms. DeNoon replied that the usage of electronic health records is a mandate by Centers for Medicare and Medicaid Services. Therefore, close to 100% of our prescribers should use electronic health records if they participate in either Medicare or Medicaid.

Public and Committee Discussion on Possible Legislation

Representative Stevens stated that the current draft legislation is the direction that the committee needs to go. Reviewing the Prescription Drug Monitoring Program at some point should become mandatory for prescribers. This should be mandated after integration is complete, which will help not only the patients but also our prescribers.

Senator Tieszen stated that both meth and opioids are a problem. The work completed should address both, however many state agencies are focusing on meth and starting prevention campaigns.

Mr. Tom Tveit, Hughes County Commissioner, Pierre, stated that the state's attorney has reported to the commission an increase in meth and opioid arrests and court cases. The county governments have to prosecute these crimes. In the case of meth, each person who is either in the home or vehicle with the meth is charged with the crime of possession, and is prosecuted separately.

Representative Bolin asked if there is any indication on how the increase in meth arrests have impacted the county's budget. Mr. Tveit replied that the county has three court-appointed contract attorneys. However, with the increase in meth arrests, the county has hired a fourth attorney, and court costs have continued to increase in the last six years.

Ms. Debra Owen, South Dakota Association of Healthcare Organizations, Sioux Falls, stated the association would have preferred to receive the draft legislation prior to the meeting, to ensure that the association could provide thoughtful feedback from the prescribers. She recommended the committee engages the association earlier.

Representative Stevens asked if there was a legitimate reason why prescribers are not signed up with the Prescription Drug Monitoring Program. Ms. Owens stated that she did not have an answer at this time.

Committee Action on Potential Legislation

REPRESENTATIVE STEVENS MOVED, SECONDED BY SENATOR TIESZEN TO AMEND DRAFT 1:

On page 2, after line 13, insert a new section stating: This act is effective on July 1, 2018.

The motion prevailed unanimously on a voice vote.

REPRESENTATIVE STEVENS MOVED, SECONDED BY SENATOR TIESZEN TO HAVE THE COMMITTEE SPONSOR THE BILL TITLED AN ACT TO REQUIRE PRESCRIBERS TO ACCESS THE PRESCRIPTION DRUG MONITORING PROGRAM DATABASE PRIOR TO ISSUING A PRESCRIPTION TO CERTAIN CONTROLLED SUBSTANCES AS AMENDED. The motion prevailed on a roll call vote with 7 AYES and 4 EXCUSED. Those voting AYE: Bradford, Monroe, Tieszen, Bolin, Haugaard, Stevens, White. Those EXCUSED: Greenfield, Conzet, McCleerey, Rozum.

REPRESENTATIVE STEVENS MOVED, SECONDED BY SENATOR TIESZEN TO AMEND DRAFT 2:

On page 3, line 12, overstrike every three days, insert every twenty-four hours; and Delete Section 5.

The motion prevailed unanimously on a voice vote.

REPRESENTATIVE STEVENS MOVED, SECONDED BY REPRESENTATIVE BOLIN TO HAVE THE COMMITTEE SPONSOR THE BILL TITLED AN ACT TO REVISE CERTAIN PROVISIONS OF THE PRESCRIPTION DRUG MONITORING PROGRAM AS AMENDED. The motion prevailed on a roll call vote with 7 AYES and 4 EXCUSED. Those voting AYE: Bradford, Monroe, Tieszen, Bolin, Haugaard, Stevens, White. Those EXCUSED: Greenfield, Conzet, McCleerey, Rozum.

REPRESENTATIVE STEVENS MOVED, SECONDED BY SENATOR BRADFORD TO AMEND DRAFT 3:

On page 1, line 4, overstrike ~~and~~;

On page 1, line 7, overstrike ~~tribal schools or organizations~~, insert Native American students; and

On page 1, line 12, overstrike ~~by June 30, 2018~~.

The motion prevailed unanimously on a voice vote.

SENATOR BRADFORD MOVED, SECONDED BY SENATOR TIESZEN TO HAVE THE COMMITTEE SPONSOR THE BILL TITLED AN ACT TO MAKE AN APPROPRIATION TO THE DEPARTMENT OF HEALTH FOR THE ADMINISTRATION OF A PROGRAM REGARDING SUBSTANCE ABUSE AS AMENDED. The motion prevailed on a roll call vote with 7 AYES and 4 EXCUSED. Those voting AYE: Bradford, Monroe, Tieszen, Bolin, Haugaard, Stevens, White. Those EXCUSED: Greenfield, Conzet, McCleerey, Rozum.

Ms. Hammond presented a fourth piece of legislation at the request of Representative Bolin and provided a summary to the committee:

DRAFT 4- Board of Pharmacy Report on the Monitoring and Use of Opioids. ([Document #5](#))

REPRESENTATIVE BOLIN MOVED, SECONDED BY SENATOR TIESZEN TO HAVE THE COMMITTEE SPONSOR THE BILL TITLED AN ACT TO REQUIRE THE BOARD OF PHARMACY TO REPORT TO THE LEGISLATURE REGARDING MONITORING AND USE OF OPIOIDS IN THE STATE. The motion prevailed on a roll call vote with 5 AYES, 2 NAYS and 4 EXCUSED. Those voting AYE: Bradford, Tieszen, Bolin, Haugaard, White. Those voting NAY: Monroe, Stevens. Those EXCUSED: Greenfield, Conzet, McCleerey, Rozum.

Adjournment

SENATOR TIESZEN MOVED, SECONDED BY SENATOR BRADFORD, TO ADJOURN. The motion prevailed unanimously on a voice vote.

The committee adjourned at 2:23 p.m. (CDT)